DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

UNITED STATES OF AMERICA,   )
)
                    Plaintiff,   )
)
v.   )   Crim. No. 2009-38
)
DANIEL CONFIDENTE,   )
)
)
                    Defendant.   )
)

ATTORNEYS:

Ronald Sharpe, United States Attorney
Everard Potter, AUSA
United States Attorney's Office
St. Thomas, U.S.V.I.
    For the United States of America,

Benjamin A. Currence, Esq.
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St. Thomas, U.S.V.I.
    For defendant Daniel Confidente.

ORDER

Before the Court is the report and recommendation of

Magistrate Judge Ruth Miller regarding defendant Daniel

Confidente's ("Confidente") petition for a writ of *error coram*

nobis.

On September 3, 2009, Confidente and two co-defendants were

indicted. The Indictment charged Confidente with conspiracy to

smuggle aliens and transportation of illegal aliens for profit.

Thereafter, on December 16, 2009, Confidente pled guilty to

Count One, conspiracy to smuggle aliens. On June 8, 2010, this

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Court entered judgment in this case, sentencing Confidente to

five years of supervised probation.

Confidente's petition for a writ of *error coram nobis* was

filed on October 4, 2013. As of that date Confidente was still

serving his supervised probation.

Confidente's petition was referred to the Magistrate Judge

for a report and recommendation. In considering the procedural

posture of this case, the Magistrate noted that because

Confidente was on supervised probation he was still "in

custody." As such, the Magistrate determined, Confidente is not

eligible for a writ of *error coram nobis*. Accordingly, the

Magistrate recommends that Confidente's petition be denied.

Confidente filed no objection to the report and

recommendation.

The premises considered, it is hereby

ORDERED that the Magistrate Judge's Report and

Recommendation is **ADOPTED**; and it is further

ORDERED that Confidente's petition for a writ of *error*

coram nobis is **DENIED**.

S_____

CURTIS V. GÓMEZ
District Judge